

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE

DAVID LIVINGSTON,)	
)	
Petitioner,)	
)	
v.)	No.: 3:10-CR-88-TAV-HBG-1
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

MEMORANDUM OPINION AND ORDER

Before the Court is Petitioner's motion to vacate, set aside, or correct his sentence [Doc. 66], and supplement thereto [Doc. 72]. Because defendant has already litigated a 28 U.S.C. § 2255 motion on the merits [*see* Docs. 19, 44, 45], the instant motion challenging his sentence is a second or successive one. Under the Antiterrorism and Effective Death Penalty Act of 1996, petitioner cannot file a second or successive § 2255 motion in this Court until he has moved in the Sixth Circuit Court of Appeals for an order authorizing this Court to consider the motion. 28 U.S.C. § 2255(h). The Court has not received any such order. Accordingly, the Clerk is **DIRECTED** to **TRANSFER** this motion [Doc. 66] and supplement [Doc. 72] to the Sixth Circuit under 28 U.S.C. § 1631 for authorization.

IT IS SO ORDERED.

s/ Thomas A. Varlan
UNITED STATES DISTRICT JUDGE